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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 64th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 9 March 1993, at 7 p.m.

Chairman: Mr. GARRETON (Chile)

later: Mr. BROTODININGRAT (Indonesia)

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(b) Report of the Special Rapporteur on the sale of children;

(c) Programme of action for the elimination of the exploitation of child labour;

(d) Programme of action for the prevention of the sale of children, child prostitution and child pornography (continued)

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The meeting was called to order at 7.20 p.m.

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD;

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN;

(c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR;

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(agenda item 24) (continued) (E/CN.4/1993/65-66, 67 and Add.1, 86, 95, 99 and 109; E/CN.4/1993/NGO/1; E/CN.4/1992/55 and Add.1; E/CN.4/Sub.2/1992/34 and Corr.1; A/RES/47/112; CRC/C/10)

1. Ms. SPASIC (Observer for the Federal Republic of Yugoslavia) read out a statement, also issued as document E/CN.4/1993/109, on the position and problems of children, including refugee children, in the Federal Republic of Yugoslavia resulting from the war in the former Socialist Federal Republic of Yugoslavia and from the imposition of sanctions on the Federal Republic of Yugoslavia.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 13) (continued) (E/CN.4/1993/51)

2. Mr. HUSSAIN (Pakistan) said that, with the substantial recent increase in the number of migrant workers, the impact on their home economies in the form of remittances and on their countries of employment by virtue of their presence had increasingly important economic, social and political consequences. While precise figures were difficult to come by, a 1985 International Labour Organisation (ILO) estimate put the number of first-generation migrant workers and their families at between 20 and 30 million, and in 1989 the World Bank had estimated the total annual value of remittances by migrant workers at approximately $65 billion - a value second only to that of the international trade in crude oil. For some countries, including Pakistan, the value of remittances repatriated by migrant workers exceeded total export earnings. Between 1973 and 1993, migrant workers had sent remittances to Pakistan totalling $25 billion.

3. Three points needed to be made concerning the role and rights of migrant workers. First, double standards had been applied regarding the issue of accepting migrant workers. Migrant workers from Europe, including Eastern European countries, tended to be eagerly accepted, while those from the third world had often been turned back, with tragic human consequences, as could be seen from the continuing saga of the boat people.

4. Secondly, immigration officers in several Western or developed countries turned a blind eye to illegal migrant workers from the third world, since they were an economic necessity for the host State. Jobs which host country

citizens refused to do were often entrusted to third world migrant workers, who were paid a pittance, with violations of labour legislation deliberately ignored by officials who interpreted and applied the law selectively.

5. Thirdly, many of the migrant workers now considered to have outstayed their welcome in their host countries in the West had initially been recruited in the 1950s and 1960s via official recruitment policies. International migration had been seen in many receiving countries as a beneficial element, to be encouraged by appropriate policies, and also as one means of fostering economic growth. In the short run, the industrial economies had attained higher growth than would have been the case had there been no migration.

6. His delegation was heartened by the unanimous adoption by the General Assembly, on 18 December 1990, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, subsequently reinforced by the resolution concerning the role of the ILO in the protection and promotion of the rights of migrant workers and their families passed at the General Conference of the ILO in 1992. It was significant that the Convention also expressed concern for the condition of undocumented migrant workers, whose numbers had been growing in the past decade with the outflow of economic refugees from economically depressed countries. While the Convention was positive in seeking to uphold and protect the rights of migrant workers, its effective implementation would depend largely on the political will of host-country Governments, which were under great pressure from myopic sections of society that sought to close off frontiers.

7. For the future, the Commission should focus on certain specific areas of the human rights of migrant workers. First, the Convention must be implemented both in letter and in spirit, thereby helping to end some of the injustices suffered by migrant workers who, while often working in sub-human conditions, contributed to the economies both of their adopted country and of their mother country.

8. Secondly, the Commission should seek to protect migrant workers against the xenophobia and racial attacks which had begun to recur in parts of Europe. In that regard, his delegation welcomed the recent resolution adopted by consensus at the forty-ninth session of the Commission, as well as the appointment of a special rapporteur to deal specifically with that problem.

9. Even more welcome, however, was the courageous and candid statement delivered to the Commission the previous week by the Minister for Foreign Affairs of Germany, Mr. Klaus Kinkel, who had spoken of the need to recognize the problem and tackle it directly. That approach should be emulated by other countries facing similar situations, so that the problem could be defused, and eventually contained.

10. Finally, his delegation called for the speedy establishment of some form of mechanism to cope with the human rights of migrant workers caught up in emergency situations such as the Gulf War, which had resulted in a massive dislocation of jobs. In that regard, he drew the attention of the Commission to paragraph (f) of the aforementioned resolution adopted by the General Conference of ILO in 1992 which urged the Director-General of ILO to cooperate

closely with the United Nations Compensation Commission so as to ensure that the work already undertaken by ILO to register migrant workers displaced by the Gulf conflict was put to use in ensuring that proper compensation reached the largest possible number of those with just entitlements, and to draw conclusions from that experience for situations which might arise in the future.

11. Ms. GRANGE (Commission of the Churches on International Affairs of the World Council of Churches - WCC) said that the precarious conditions and discriminatory treatment suffered by migrant workers were a vital humanitarian concern of the Christian Churches. Her organization congratulated the Arab Republic of Egypt for having been the first State formally to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and trusted that that first ratification would soon be followed by others.

12. The protection of migrants was one of the most serious dilemmas confronting the contemporary world; according to figures provided by the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR), more than one in every 50 human beings had crossed borders as migrants or refugees, and the number was likely to continue to rise. Direct testimony had convinced the World Council of Churches that much international migration was not voluntary: many people were forced to migrate because of environmental degradation, unsustainable development, and environmentally unsound economic practices. Development projects had resulted in whole communities being displaced from their traditional lands. Until such factors were recognized and alleviated, people would continue to migrate across borders in large numbers and to face situations in which their basic human rights were jeopardized.

13. Migrant workers were faced with a rising tide of hostility in many societies, obviously exacerbated by the traumas of recession and unemployment. The media had highlighted the recent series of attacks on foreigners in Germany and other European countries; however, violations of the rights and basic dignity of migrants had become a worldwide phenomenon. Unless the basic human rights of migrants were fully recognized and protected, there was a danger that a still worse climate of xenophobic violence would develop. The ecumenical community reiterated the concerns expressed by IOM and various Governments that in a complex and volatile world an orderly and structured international framework and codification of legal regimes were needed to regulate migrants' movements and ensure recognition and protection of their basic rights. That could best be accomplished by incorporating a universal, international framework relating to the status and rights of migrants in the laws and policies of nations worldwide. The adoption of the International Convention was a major accomplishment in that regard. However, WCC was concerned that some States had delayed ratifying the Convention, and that several, including some that were members of the Commission, had expressed reluctance or outright opposition to pursuing ratification. Even some States that had participated in the Drafting Committee had indicated such reluctance.

14. A significant number of States had co-sponsored resolutions under item 13 over the past two years. Those concerns should continue to be expressed by the Commission in a new resolution emphasizing the importance of the

protection of the dignity of migrant workers and of ratification of the Convention. WCC noted with appreciation an initial reference to that concern incorporated in the text of the resolution on the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, and welcomed the Commission's decision to appoint a thematic special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance.

15. States which had participated in the drafting of the Convention or had expressed support for its ratification should now ratify it promptly. The United Nations and the Centre for Human Rights should be adequately strengthened to facilitate that process. Sufficient resources should be allocated to ensure production and wide distribution of materials, including a briefing paper on the Convention for government officials, parliamentarians and legislatures involved in ratification procedures. The World Council of Churches and the Churches' Committee for Migrants in Europe had themselves produced a briefing paper entitled Proclaiming Migrants' Rights, available in four languages, which her organization was pleased to offer for wider distribution. Finally, in cooperation with interested Governments and possibly with IOM, the Centre should organize briefings and seminars in different regions to assist in ratification of the Convention.

16. Ms. CHISZAR (Women's International League for Peace and Freedom) said that, although the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families needed to be signed and ratified by 20 Member States before it entered into force, as of 10 December 1992 only Mexico and Morocco had signed the Convention. Her organization wished to place on record its appreciation of the scope of the Convention, and to urge other non-governmental organizations to support its immediate ratification.

17. The mass exoduses taking place throughout the world were the result of violations of the rights guaranteed to all human beings under the two International Covenants. The circumstances that caused people to seek work outside their country of origin often reflected the failure of development models and economic structures to provide basic employment and subsistence, as well as the impact of environmental degradation and the displacement of people in order to implement agricultural, hydroelectric, mining, forestry and other development projects. As the presence of migrants became a major social and political issue in many countries, the principles set forth in the Convention might prove to be the foundation on which to build a just and humane approach to the problem.

18. The significance of the Convention for women could not be overstated. Recent statistics showed that the number of women migrating to seek employment had grown very rapidly. Families at home were often dependent on the money women earned abroad, and migrant women were often the first to lose their jobs during a recession. It was well known that women who migrated to seek employment tended to occupy the lowest rungs of the labour market, and were often victimized on three counts: as workers, as women and as foreigners. They were often forced into prostitution, or resorted to it upon losing their jobs. For instance, there were an estimated 2,000 or more Burmese women working in brothels along the Thai border, many of whom had been lured by

false promises of jobs, or kidnapped. Elsewhere, as in Germany, agencies claiming to find migrant women restaurant or hospital work actually placed them in nightclubs where they were forced into prostitution. Women working as domestic servants were often physically and mentally abused, as in the case of Sri Lankan domestic servants in Western Asia.

19. Also deplorable was the situation of the wives, mothers and daughters of men who migrated abroad in search of employment. Denied normal family life for years on end, they finally became the victims of systems that refused to acknowledge their right to be reunited with their male family members and to be treated as equal members of the societies that had perforce become their second homes.

20. Ratification of the Convention was the duty of all States that benefited from the labour of migrant workers or whose economies were bolstered by the remittances sent by workers from abroad. When ratified, the Convention would also discourage clandestine and illegal migration, by committing States parties to promote humane and lawful conditions in the context of internationally recognized migration practices. Her organization thus urged all Governments that valued human dignity and respect for the fundamental rights and freedoms of all people to ratify the Convention without further delay.

21. Mrs. OLGUIN (International Indian Treaty Council) said that two years previously, when the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families was adopted, there had been high expectations that the human rights of migrant workers would finally be given the attention they deserved. However, the conditions of migrant workers had not improved but had constantly worsened while the migration of people as a result of distressed economies and oppressive political situations had continued to escalate.

22. People fleeing intolerable situations were finding themselves trapped as indentured slaves. In the affluent United States of America, migrant farm workers had a life expectancy of 49 years compared with the American average of 73 years and infant mortality was three times higher. Poverty, malnutrition, infectious diseases, poor education, a young population and sub-standard housing were the lot of a highly vulnerable population in dire need of resources.

23. In California, an annual average of 1,173 reported illnesses and 50 fatalities were related to exposure to pesticides. Cancer clusters of children which were hundreds of times the norm were found in the San Joaquin Valley. Forty-eight per cent of farmworkers' children working in the fields had been sprayed with pesticides and 38 per cent of the labour force were reported to be children.

24. Agriculture was one of the top three occupations in the United States causing deaths and injury and it was not unusual for workers to have their wages kept by the employer and to find themselves penniless at the end of their contract. Eighty-five per cent of agriculture in that country employed migrants, who were not covered by the social legislation that industrial workers had had for over 60 years. They had no health benefits, were not

guaranteed drinking water or toilets, and in the few American states where an agricultural workers' relations law allowed workers to engage in collective organizing, the law had been corrupted to prevent it. There was arrogant disregard for the few laws that protected workers, by politicians who protected the employers' interests, and by employers who used labour contractors to avoid responsibilities and payment of social security benefits. The power of agriculture was so great that workers' attempts to change it had been met by violence and murder; five union organizers had so far been killed for union activities.

25. For women, the exploitation included sexual favours; thousands of women migrants employed as au pairs in the United States were often held as indentured servants. Even those who professed to uphold the law, broke it at the expense of migrants, as could be seen from the recent nominations for the post of Attorney-General in the new administration. The withholding of documents or the absence of documents was used as leverage for keeping workers under control.

26. A well-documented pattern of abuses, ranging from arbitrary attention, physical assault, rape and murder to sacred treaty violations of the right of indigenous peoples to cross borders freely had shown that Federal agencies were the perpetrators.

27. In the opinion of her delegation, the North American Free Trade Agreement currently being negotiated would not provide protection for agricultural workers. The Convention similarly provided no substantial recourse when the receiving countries and the sender countries refused to live up to their international obligations, especially with regard to work which their own nationals were unwilling to do.

28. Her delegation urged the Commission to adopt more active measures to encouraging member States to ratify the Convention before the fiftieth session of the Commission and to request a more substantial report by the secretariat on the important topic of migrant workers.

29. Mrs. ADAMS (Sierra Club Legal Defense Fund, Inc.) said that the deplorable conditions faced by migrant workers throughout the world often included significant environmental aspects. Migrant workers, often treated as second rate people, had borne the brunt of environmental irresponsibility in nearly all countries; protection of their rights was not meaningful unless protection of their environment was included.

30. Her organization considered it very positive that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families included provisions that would enhance the environment of the migrant workers; the standards of fitness, safety and health and the principles of human dignity referred to in article 70 included standards of environmental hygiene that precluded exposure to dangerous pesticides and insanitary conditions. Article 9 provided for the protection of the right to life, including an environment capable of sustaining life, article 25 stated that migrant workers should enjoy treatment in employment no less favourable than nationals of the State in respect of safety and health and article 42 of the Convention addressed the right of popular participation, a right

critically important to the environmentally-sound stewardship of migrant worker communities. Article 64 covered the important issue of the impact of migrant worker populations on the communities to which they migrated since the sudden influx of a population of migrant workers could seriously affect the quality of water, land and air of the host community. Adverse effects included increased pollution, land degradation and desertification and deforestation.

31. Her delegation wished to register its extreme disappointment that in the three years since the Convention had been adopted, it had received only two signatures, and urged all States Members of the United Nations to sign and ratify the Convention as an issue of the highest priority.

32. Mr. BORDIU (World Federation of Democratic Youth) said that migrant workers were excluded from any real integration in the societies to the development of which they contributed. The symptoms of that exclusion were the proliferation of migrant ghettos and segregation in education owing to an increasing failure rate as a result of lack of support by the education authorities. Exclusion led to accidents and increased racial tension between the resident and the immigrant communities; to improve the situation efforts needed to be made to improve communication and integration in a multicultural society.

33. Migrant workers should have the same political rights as residents after five years' residence, and governments should combat xenophobia and racism. Migrant workers should have the unrestricted right to change their profession, domicile or employment as well as the right to an equal wage for equal work. One of the most fundamental rights was to live as a family and the residence permit should from the start include close family members. The situation of clandestine workers needed to be regularized; in particular he mentioned the case of Mr. Clark, a New York trade unionist, who had tried to regularize the situation of clandestine workers following a decision by the Bush Administration to amnesty them and had been unjustly imprisoned, the victim of a plot.

34. Migrant workers needed to be enabled to maintain a positive relation with their culture; the culture of the country of origin should be taken into account in the elaboration of school programmes. At the same time, migrants should be offered every opportunity for access to the culture of the country of residence by introductory classes in the local language. Particular attention should be given to women whose integration was generally more difficult since they had to overcome more considerable social obstacles. Immigration policy should be democratically controlled and not handled by the police and the army.

35. Ms. OZDEN-NEURY (Centre Europe-Tiers Monde) said that the extension of civil rights to all the nationals of a country had been a lengthy exercise in democracy. In the past, there had been one criterion, that of nationality; only the nationals of a country were regarded as citizens while non-citizens were classed as aliens. However, the world was changing and with the increasing mobility of individuals, non-citizens comprised a large proportion of the population in the countries where they lived, paid taxes and brought up

their children. Regrettably, nationalism and chauvinism were re-surfacing and the extreme right was attempting to play on the negative feelings of part of the population in order to propagate hatred and xenophobia.

36. The response to those racist and ethnic tensions was the concept of a "new citizenship", no longer based on nationality but on residence, which postulated that everyone, wherever they lived, should have the right of vote and eligibility, after a certain time. That concept did not advocate assimilation or naturalization for aliens, nor did it require them to reject their nationality or their cultural origin. Instead of being based on exclusion, it was concerned with solidarity and equality and fraternity between peoples. It called on everyone to assume actively the problems of the community, and extended not only rights but also responsibilities.

37. The propagation of the idea of the new citizenship would be a powerful weapon against racial hatred and national chauvinism. She quoted at length an article by the author Laurent Moutinot published in Equinoxe in November 1990 on nationality and equality and the importance of solidarity, noting that the concept of solidarity was expressed in article 29 of the Universal Declaration of Human Rights. The definition of the right to vote in terms of social integration and the worker's participation in economic life was an act of solidarity, based on the idea of equality. Nationality, described in 1789 and 1948, as membership of a community with the rights which the system conferred on individuals and on the community, was a good criterion for restricting the right to vote. However, that definition had become meaningless, largely because of the phenomenon of migrations. Nationality must be rethought; at the same time, it must be recognized that individuals might have a number of links; multinationality provided an appropriate response to migrations. The concept of transnationality, or a system of superimposed nationalities and interconnections, should be developed rapidly in Europe.

38. In conclusion, she said that civil rights, namely, the right to vote and the right of eligibility could not be dissociated; people could not be citizens by halves. Similarly, the extension of civic rights to all the residents of a given territory admitted no restrictions on grounds of origin. Lastly, the time-frames set for new residents to obtain their civic rights should not exacerbate the precarious situation and condition of over-exploitation of new arrivals but facilitate their integration.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 23) (E/CN.4/1993/64)

39. Mr. STRØMMEN (Norway) introduced the report of the eighth session of the Working Group on the drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1993/64). The Working Group's mandate was aimed at the more effective realization of rights already recognized or implicit in existing international instruments. The draft declaration addressed itself particularly to cases of individuals and groups working to promote and protect human rights, sometimes known as human rights defenders.

40. The persecution and dangers faced by human rights defenders in many parts of the world remained a preoccupation. It was the prevailing view in the Commission that it had a special responsibility to seek to extend protection to those individuals and groups.

41. Several of the most difficult outstanding issues confronting the Working Group had been solved, for example, the difficult question of funding the activities of human rights defenders. The Working Group had further made substantial progress in dealing with the complex of issues of duties and responsibilities. However, several difficult and substantive matters remained to be tackled.

42. It was his hope that the Working Group would be able to bring the second reading to a successful conclusion at its next session following a first reading to take on some of the difficult problems at the current session. It should be borne in mind that trying to rush such an exercise as developing a declaration on human rights defenders could be counterproductive.

43. He made particular mention of the outstanding work of the previous Chairman, Mr. Walker of Australia, who had indeed been devoted to the task and objectives of the Working Group.

44. Ms. SHAO Wenhong (China) said that nearly a decade had passed since the start of the drafting of the declaration, during which period the Working Group had conducted full and in-depth discussion on the purposes and principles of the declaration. Although the international situation had undergone tremendous changes since the mid-1940s, the purposes and principles of the Charter of the United Nations still had significance in the field of human rights and it was under their guidance that the international community had been able to elaborate international human rights instruments with widespread influence.

45. The current draft of the declaration still contained some loopholes and shortcomings. First, the declaration should reflect the relationship of interdependence of the two categories of human rights, particularly the basic human rights to subsistence and development which were of great concern to the developing countries. Secondly, the Working Group had agreed to emphasize the responsibilities and obligations of States in protecting and promoting human rights. However, each country had its own concrete conditions in respect of those purposes and the action taken by each State should therefore receive the necessary affirmation and respect without which individual and collective efforts would not be reflected in the form of law; that relationship had not been reflected properly in the draft declaration. Thirdly, the unity of the rights and obligations of individuals was a universally applicable principle in the laws of all countries. The current draft declaration, however, enumerated in detail the rights enjoyed by individuals, groups and organs of society but was ambiguous in the statement of their obligations. An unbalanced text would not guide the international community and countries in the protection and promotion of human rights in a fair and comprehensive manner. Lastly, the protection and promotion of human rights and fundamental freedoms was one of the important principles established by the Charter of the United Nations and was not contradictory to the principle of respect for State sovereignty. Outside interference or subversion under the pretext of

protecting human rights, which might endanger that principle, could not be accepted. Her delegation held that nothing in the draft declaration should be construed as encouraging activities aimed at endangering the sovereignty and security of a sovereign State in any form.

46. The role and significance of the activities of the protection and promotion of human rights and fundamental freedoms by the United Nations should be endorsed; the Chinese Government had always attached great importance to those activities and would like to continue to participate in the common efforts to elaborate international human rights instruments which were just, reasonable and universally applicable.

47. Mr. BENNETT (Australia) underlined his Government's support of the Working Group and recalled Australia's long association with it. Welcome progress had been made at its recent meeting on many of the difficult issues in the draft declaration.

48. While the Working Group had been initiated in historical circumstances which had since changed, the persecution and dangers faced by human rights defenders in many parts of the world remained. It was noteworthy that a number of non-governmental organizations had taken part in the recent meeting of the Working Group, their involvement and approach confirming that human rights defenders themselves saw value in such a declaration.

49. Australia would continue to make every effort to assist the Working Group in completing its important task and hoped that it would be able to submit the draft declaration to the Commission for endorsement at its fiftieth session.

50. Mr. HUSSAIN (Pakistan) said that when addressing the question of the rights and responsibilities of journalists, it was important to take into consideration the context. In third world countries, journalists must surmount greater difficulties and acted not only as conveyors of news but also, depending on the situation in their countries, as defenders of human rights. Bearing in mind the indivisibility of human rights, freedom of expression for the press included the right to publish views that might be at variance with government policy. That principle accepted differences of opinion within countries and was equally important between countries, large or small, as a fundamental national right stemming from State sovereignty.

51. Another aspect of the role of journalists in the third world was that the level of literacy in third world countries was no indication of the political consciousness of their populations. In Pakistan, for example, notwithstanding the somewhat low literacy level, women leaders had been routinely playing an important role in electoral politics without their gender being an issue; that was unthinkable in many countries in the West. Pakistan was also a case in point of a progressive Muslim country where women were active in journalism and the national media, a role that likewise had been accepted for a long time.

52. Compared to their colleagues in the third world, journalists in the West had a better working environment and easier access to information and far more sophisticated technology, and their ability to shape opinion and policies was

therefore greater. That being the case, they bore a greater responsibility, since the perceptions they promoted and the images they conveyed could often have an impact, for better or for worse, on the human rights of those who were the subjects of their stories. For example, the Western media had played a positive role in exposing the war crimes committed by the Serbs against the Bosnian Muslims. Conversely, journalists in the West, like many Governments there, had been obsessed by what was called "Islamic fundamentalism" and had contributed to shaping an image that did not correspond to reality. An example of that was the coverage of the bombing of the World Trade Centre, New York City, some journalists having even attempted to blame that isolated act on all people professing the same faith. Such journalistic irresponsibility might well affect the human rights of the 6 million Muslims living in the United States. Journalists in the West must avoid contributing to the start of a new cold war, directed against Islam and the Muslims.

53. In closing, he drew the Commission's attention to Protocol I additional to the Geneva Conventions of 12 August 1949, which in chapter III, article 79 specified that "journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians". That was important because journalists, who played a key role in promoting human rights, often put their lives at risk in the exercise of their profession.

54. Mr. ALFONSO MARTINEZ (Cuba) said that the report of the Working Group established to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1993/64) reflected recent progress made in finishing the first reading of the draft declaration. But important issues remained.

55. The concept of universally recognized human rights had not yet been defined. In chapter II, article 1 (Annex I to the report), the word in square brackets, "others", was of particular importance to that provision, and its meaning was still open to debate. In chapter II, article 3, a decision still needed to be taken on the territorial scope of those activities.

56. Generally speaking, however, the text was in an advanced state. The draft declaration would not create new rights, but would help to define the principles set out in the Universal Declaration of Human Rights. That included activities which individuals, organizations and groups could undertake in defence of human rights, but also duties and limitations, so as to strike a necessary balance.

57. Article 29 of the Universal Declaration made a general reference to the duties of individuals towards society, and in chapter V, the Working Group sought to define those duties more precisely.

58. Chapter V recognized the value of domestic law, which set limits on the practical exercise of any given right, and referred in that context to such considerations as the public order and general welfare in a democratic society.

59. Chapter III, article 4 regulated questions concerning financial contributions for such activities, including contributions from foreign sources and the use thereof, which were to be subject, on a non-discriminatory basis, to national legislation.

60. The Working Group had begun its second reading of the preamble, which had been the result of a careful compromise. Any attempt to change it would have an adverse impact and would imply reopening the discussion. That was particularly true for preambular paragraph 5.

61. His delegation would have preferred it if Governments had been given a year to digest the results of the draft resolution, but as that was not the view of the majority of States, Cuba was flexible in that regard and could go along with the holding of a session of the Working Group in 1994. His delegation suggested that once the first reading had been completed, the text should be circulated to Governments so as to obtain their reaction, as well as the opinion of inter-governmental organizations and non-governmental organizations, which the Working Group could then draw upon in its session of 1994.

62. Mr. JOHANNESSON (Observer for Iceland), speaking on behalf of the Nordic countries, said that although human rights and democracy were making progress around the world, the real defenders of human rights all too often risked discrimination, mistreatment and even death. For that reason, the Nordic countries attached great importance to the efforts of the Working Group. The goal was to extend protection to courageous individuals and groups in their struggle to promote and encourage respect for human rights and to enhance their ability to monitor the human rights situation in any country, to call attention to human rights violations and to assist the victims. The declaration could serve as a charter for human rights defenders.

63. The Nordic countries noted with satisfaction that the Working Group had made progress at its 1993 session in resolving a number of outstanding matters. They looked forward to finalizing the second reading of the draft declaration, if possible at the next session. The Nordic countries encouraged participation in the Working Group.

64. Mr. OYARCE (Chile) praised the Working Group for its valuable effort in producing the draft declaration, which would ensure the promotion of human rights within the context of the Universal Declaration of Human Rights and other relevant instruments. His delegation was pleased that progress had been made towards defining the concept of the universality of human rights and fundamental freedoms, as well as on the matter of financial contributions for the purpose of promoting and protecting human rights, questions of territorial scope and the issue of rights and duties. Most problems had been ironed out, and all that was needed was the political determination to reach a successful conclusion.

65. Chile thanked the non-governmental organizations for their important contribution to the efforts of the Working Group.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS

66. Mr. HUSSAIN (Pakistan) said that the question of human rights and the environment was inextricably linked to the right to development and, more fundamentally, to the right to survival, a fundamental human right denied almost half of the world's population because of widespread poverty and unemployment. A massive global initiative must be undertaken to achieve ecological regeneration of the natural resource base.

67. In Asia, Africa and Latin America, village communities needed to improve their local agricultural systems through afforestation, land development, soil conservation and small-scale energy programmes. As most of those activities were highly labour-intensive, if employment could be created on a wider basis to help the environment to recover, the twin evils of poverty and ecological degradation could be arrested. If the right to survival was backed up by a programme guaranteeing jobs in ecological regeneration, even at survival wages, persons would not flee their homes when droughts or other natural disasters struck.

68. An important link existed between the environment and the economy. Those who polluted must be made to pay. All production and consumer activities should bear their full cost, including the cost to the environment. Environmental degradation and economic deprivation were closely related: half of the third world's external debt and more than two thirds of global deforestation occurred in the same 14 developing countries. Moreover, most of the world's looming environmental threats were by-products of affluence. While 1.3 billion people lacked access to safe drinking water, 1.5 billion had insufficient food, 14 million children died annually of hunger, 100 million were homeless and 400 million were undernourished, the world also had some 160 billionaires and 2 million millionaires and Americans spent $5 billion every year on diets to lower their calorie intake: that was the global reality of development and underdevelopment, with inevitable consequences for the environment and human rights as well. Thus, the right to survival was a prerequisite to the right to development and was, indeed, the most fundamental of all human rights.

69. In Pakistan, nascent environmental awareness had already spawned a vigorous environmental movement, led by a broad range of dedicated activists and backed by the Government, which had already in 1991 adopted a National Conservation strategy for clean air and safe water in an unpolluted atmosphere. The linkage between human rights and the environment had been institutionalized by the Supreme Court through what was known as "public interest litigation", in the context of which a number of cases had already been taken up for consideration.

70. Lastly, Pakistan, which was committed to the global consensus reflected in the Rio Declaration on Environment and Development, attached special importance to Principle 2, concerning the sovereign right [of States] to exploit their own resources pursuant to their own environmental and developmental policies; to Principle 3, which accepted the right to development whose fulfilment was deemed to be necessary "to equitably meet developmental and environmental needs of present and future generations";

to Principle 7, which contained the acknowledgement by the developed countries of "the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command"; and to Principle 23, which stated that "[T]he environment and natural resources of people under oppression, domination and occupation shall be protected".

71. Mr. AL-DOURI (Observer for Iraq) said that although it might be considered strange to dwell on the impact of scientific and technological regression under an item on developments in those areas, the situation in Iraq as a result of the embargo imposed by the Security Council could not be described as anything but negative.

72. That was particularly true of education in all its forms and at all levels: formerly, the right to education had been freely enjoyed by all Iraqis without exception, and education itself had been provided free of charge, from kindergarten to university; now, the embargo had imposed constraints of every kind, ranging from the simple and most grotesque (pencils and ink could not be imported, ostensibly because the lead and chemicals therein might find their way into the armaments industry) to the practical and day-to-day (teachers and students found it difficult to travel to their institutions, destroyed or damaged by bombardments or lacking materials and equipment of every kind), and to the more complex and overtly political (there was a ban on the import of scientific and learned journals, to which Iraqi scientists and scholars were no longer able to contribute, and even on the import of United Nations publications, including those which dealt with the subject of human rights). As a result, educational standards were inevitably declining and Iraq was unable to keep abreast of world developments, not only in science and technology, but also in the humanities and in the field of culture in general. Was that not an affront to the people's dignity, and a situation in which violation of the International Covenant on Economic, Social and Cultural Rights might justifiably be invoked? He called on the Commission and on all individuals and organizations active in the scientific and cultural domains to work for a review of the embargo, so that it might be lifted at least in respect of the products he had alluded to.

73. Ms. ORR (Women's International League for Peace and Freedom), calling particular attention to articles 3 and 22 of the Universal Declaration of Human Rights, said that the rights of humankind could not be advocated without acknowledging the interdependence of people and the world they inhabited. Environmental damage was in itself a violation of human rights.

74. According to Principle 10 of the Rio Declaration on Environment and Development, individuals should have access to information concerning the environment. And, indeed, public awareness was growing of the countless cases of environmental degradation that could be attributed to action by governmental or military authorities. She mentioned just a few specific instances where the latter were most blatantly responsible: illegal logging in the Philippines; rape of the natural heritage of forest-dwellers in Brazil; nuclear contamination in Russia, the United States and French Polynesia; toxic contamination as a persistent consequence of the war in Viet Nam;

famine, the wanton destruction of resources and enforced migration in many countries in Africa; the razing of forests, crops and villages as part of counter-insurgency measures in El Salvador; and the severe hazard to health, notably that of children, in Iraq, caused by the residues of the Gulf conflict - in particular by spent artillery shells that released radioactive uranium particles into the atmosphere, and perhaps into the soil and water as well.

75. If the instruments of war were increasingly destructive to the environment, the nature of war itself had changed, very much for the worse. Environmental terrorism and the destruction of the environment had in fact become military strategies in themselves, as reflected, for example, in the deliberate burning of oil wells; the planting of mines in harvestable land and on paths used by peasants and farmers as they went about their work; the destruction of irrigation systems; the use of chemical or biological weapons; and - more generally - resource devastation and indiscriminate or targeted damage to basic economic infrastructures on a massive scale.

76. Obviously, excessive military expenditure diverted resources from health, education and the environment; worse still, a vicious circle was created whereby the underfunding of social welfare led to social tensions and a consequent increase on spending on the State security apparatus, including the army, whose actions could undermine society. Military activity, both individually by country and collectively, clearly negated the right to "life, liberty and security of person" enshrined in the article of the Universal Declaration of Human Rights with which she had begun her statement. The organization on whose behalf she spoke called upon the Commission to provide the resources necessary for a serious study of the interrelationship between human rights and the environment, in which the negative effect of military activities should not be neglected.

77. Mr. PORRET (International Fellowship of Reconciliation) commended the reports by the Special Rapporteur on human rights and the environment of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and expressed IFOR's hope that the United Nation's Conference on Environmental Development would prove to have been the springboard for meaningful action - and not merely research - to prevent an irreversible downward spiral of worldwide degradation, as exemplified in the destruction of the tropical rainforest; the harm already inflicted on natural waterways, lakes or inland seas, or inherent in grandiose but misguided development projects; the wholesale depopulation of the marine environment by modern fishing techniques and the pollution caused by oil spills, which endangered coastal regions and their inhabitants as well, by the wrecking of nuclear-powered vessels or ships carrying nuclear cargo and by the dumping of all manner of waste; and accidents on land during the transport of dangerous goods, to name but a few of the major causes of anxiety. Where all of those matters were concerned, IFOR called for the stricter observance of existing regulations, and for specific, urgent measures that would help to conserve a habitable environment for future generations.

78. Mr. Brotodiningrat (Indonesia) took the Chair.

79. Ms. PARKER (International Educational Development, Inc.) voiced IED's grave concern at what it believed to be the unjustified administration - with the blessing of the United States Public Health Service - of the chemical substance zidovudine (AZT) to HIV-positive but otherwise healthy persons.

80. Recalling the conflict of views between Dr. Robert Gallo and Dr. Luc Montaignier concerning the discovery of the human immunodeficiency virus (HIV) and its relation to the acquired immune deficiency syndrome (AIDS), she set out in some detail the argument against the administration to HIV-positive but otherwise healthy persons of AZT, an indiscriminately cytotoxic substance, calling particular attention to the questionable validity of the monitoring processes involved.

81. To manipulate HIV-positive persons into accepting a toxic and ultimately lethal chemotherapy constituted, in IED's view, a violation of the right to life. It urged the United Nations as a whole, and more especially the World Health Organization and the Commission on Human Rights, through the intermediary of the Special Rapporteur on matters related to HIV and AIDS of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to intervene in the dissemination of propaganda with regard to the unfounded hypothesis that HIV was the direct cause of AIDS, and to urge a ban on the use of AZT and all similar substances until they were irrefutably proven to be effective.

82. Lastly, IED welcomed the tabling of draft resolution E/CN.4/1993/L.82 on human rights and bioethics, and would urge the Secretary-General to include discussion of that critical issue in his report to the Commission at its fifty-first session.

83. Ms. ADAMS (Sierra Club Legal Defense Fund, Inc.) said that while the appointment of a Special Rapporteur on human rights and the environment by the Sub-Commission on Prevention of Discrimination and Protection of Minorities had to some extent mitigated the perceived need for a rapporteur on toxic substances, the latter issue remained extremely topical. Efforts to institutionalize control measures through bilateral and multilateral instruments, notably the Basel and Bamako Conventions, and the promulgation of declarations, recommendations and codes, were certainly to be welcomed. Some reluctance on the part of Western Governments to commit themselves in such matters had, however, been observed. It was nevertheless to be hoped that the Commission would adopt by consensus the draft resolution that had been tabled on the movement and dumping of toxic and dangerous products and wastes (E/CN.4/1993/L.47). The Sierra Club Legal Defense Fund was cooperating closely with the Special Rapporteur in the preparation of her important and eagerly awaited study of the complex relationship between the environment and human rights, some of the strands of which were stronger than others and perhaps deserved closer attention. It set great store by the new Administration in the United States, hoping that the promised changes would result in a definite departure from dogmatic persistence in outmoded thinking and in a more thoughtful understanding of the relevance of the environmental issue to any human rights regime.

84. Mr. OZDEN (Centre Europe-Tiers Monde) voiced CITEM's alarm at reports that Somalia, already a martyred country for other reasons, was becoming even more of a dumping-ground than it had been for some years past for toxic wastes produced by the industrialized world; inquiries suggested that interests in Switzerland and Italy might be directly involved. The Organization of African Unity had vigorously protested against the illegal traffic, which demonstrated the cynicism with which its originators viewed the peoples of Africa and their land. The current situation in Somalia and elsewhere seemed to have pushed the matter into the wings, and the UNEP Coordinator for the Basel Convention had confessed that the United Nations was virtually powerless to investigate and still less to take action. But had not the Basel Convention itself, ratified by Switzerland and Italy among others and even engineered in great measure by the former, been designed as a barrier against the unscrupulous export of hazardous wastes? It might be considered inadequate for that purpose by many African countries, but it at least had the merit of existing. There was no excuse for non-respect of its provisions, and the incriminated countries should be enjoined most strongly to assume their responsibilities and take remedial action without delay, especially when they were wealthy enough to do so.

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 20) (continued)

85. Mr. ATTAYOUB (International Association of Educators for World Peace) alerted the Commission to the blind repression that successive Governments in Niger and Mali had been carrying out against the Tuareg people, causing thousands of deaths in the civilian population. Following the massacre in Tchin-Tabaraden, Niger, of more than 1,000 persons in the Tuareg population, the repression had become generalized in northern Mali and Niger. More than 100,000 Tuaregs and Moors had fled to Algeria, Mauritania and Burkina Faso, where they were living under extremely difficult conditions, despite the praiseworthy efforts of those three countries.

86. According to Tuareg organizations, the army in Mali had killed more than 10,000 civilians since June 1990. The most shocking massacre in Mali had been perpetrated in Léré on 20 May 1991, when 50 Tuaregs and Moors had been executed in public and buried in a mass grave, after which their families had been held hostage by the army for one year. On 14 May 1992, 12 persons working for the Norwegian Church had been murdered in Gossi and 48 livestock owners on 17 May 1992 in Foïta.

87. In Niger, a state of emergency was still in force in the north, and the army was terrorizing the Tuareg population, arresting, torturing and murdering at will. The members of the armed forces were assured impunity, regardless of their actions. In August 1992, for example, the army had arrested 200 leading personalities of the Tuareg community, solely for reasons of ethnicity; 60 were still in detention. Although those arrests had ignored all standards of legal procedure, they had not been condemned by the international community. No political or military official had been made accountable for his role in the killings, and certain officers had publicly admitted having killed or ordered the killing of civilians.

88. Despite the "democratic process" embarked upon in Niger and Mali, the Tuareg community continued to be excluded from the political and economic life of those countries. In Mali, a constitutional referendum and legislative and presidential elections had been held at the very moment that the army was carrying out daily massacres and more than 100,000 persons were fleeing to neighbouring countries. In Niger, a constitutional referendum and legislative elections had been held, but all leading Tuareg personalities who might have wished to play a role in them had been arrested.

89. The International Association of Educators for World Peace was shocked by the silence of the international community in the face of the massive human rights violations perpetrated against the Tuareg people.

The meeting rose at 10.25 p.m.